

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORKUSDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 12/18/2013-----X  
SHERRY KRAPF, *et al.*, individually and on  
behalf of others similarly situated,

Plaintiffs,

v.

FOURTH WALL RESTAURANTS, LLC, *et al.*,Defendants.  
-----X

11 Civ. 6549 (KPF)

ORDER

KATHERINE POLK FAILLA, District Judge:

**WHEREAS**, the above-captioned matter (the “Wage Action”) is currently pending before this court;

**WHEREAS**, Plaintiffs have made an application, pursuant to Rule 23 (e), Fed. R. Civ. P., for an order approving the settlement of the claims alleged in the Lawsuit, in accordance with a Stipulation of Class Action Settlement (“Agreement”) dated November 27, 2013), which, together with the exhibits annexed thereto, sets forth the terms and conditions for a proposed settlement of the Wage Action against Defendants and for dismissal of the Wage Action against Defendants with prejudice upon the terms and conditions set forth therein, and the Court has read and considered the Agreement and the exhibits thereto; and,

**WHEREAS**, all terms contained and not otherwise defined herein shall have the same meanings set forth in the Agreement.

**IT IS ON THIS EIGHTEENTH DAY OF DECEMBER, 2013 HEREBY  
ORDERED AS FOLLOWS:**

1. The Court hereby preliminarily approves the settlement set forth in the Agreement as being fair, just, reasonable and in the best interests of the Settlement Class as described in the Agreement (hereinafter the “Class”).

2. The Court hereby preliminarily certifies the Class and finds that for purposes of the proposed settlement, the FLSA group is similarly situated, subject to the entry of the Final Order and Judgment as provided in the Agreement. For the purposes of settlement the Court further finds that and that the State Settlement Class meets the requirements for class certification under Federal Rule of Civil Procedure 23, subject to the entry of the Final Order and Judgment as provided in the Agreement.

3. The Court hereby preliminarily certifies Class Counsel, and the named plaintiffs as Class Representatives as described in the Agreement, subject to the entry of the Final Order and Judgment as provided in the Agreement.

4. The Fairness Hearing Shall be held before this Court, on **April 28, 2014, at 3:00 p.m.**, at the Thurgood Marshall United States District Court, Southern District of New York, U.S. Courthouse, 40 Foley Square, New York, New York 10007, to determine whether the proposed settlement of the Wage Action on the terms and conditions provided for in the Agreement is fair, just, reasonable, adequate and in the best interests of the Class, and should be approved by the Court; whether an Order and Final Judgment of Dismissal, as provided in the Agreement, should be entered; and to determine the amount of attorneys’ fees, costs and expenses that should be awarded Class Counsel.

5. The Court approves, as to form and content, the Revised Settlement Notice filed on ECF on December 5, 2013, as Docket Entry 72, and finds that the mailing and distribution of the Settlement Notice substantially in the manner and form set forth in the Agreement constitutes the best notice practicable under the circumstances, and constitutes valid, due and sufficient notice to all persons in the Class, complying fully with the requirement of Rule 23 of the Federal Rules of Civil Procedure, the Constitution of the United States and any other applicable laws.

6. By **April 14, 2014**, Class Counsel shall move the Court for final approval of the settlement, and submit a memorandum of law in support of Plaintiff Counsel's application for attorneys' fees and incentive awards.

Dated: December 18, 2013  
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA  
UNITED STATES DISTRICT JUDGE